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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,172	01/16/2001	Charles W. Schibi		7020

7590

02/27/2003

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EXAMINER

LAGMAN, FREDERICK LYNDON

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/764,172

Applicant(s)

SCHIBI, CHARLES W.

Examiner

Frederick L. Lagman

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 15, 16 and 25 is/are allowed.
- 6) ☒ Claim(s) 17-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-24, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 57-29718 in view of Japanese reference 4-7499.

Japanese '718 discloses a canal including an impermeable plastic liner (i.e. water resistant sheets) fixed to the canal via fasteners, it is inherent that the canal has a length, a bottom and first and second side walls. The sheets having a width that extends across the canal width, wherein the ends of sheets are anchored in a trench extending along both sides of the canal.

Japanese '718 does not disclose the at least one tab such that a head of a fastener is between the tab and the liner. Japanese '499 teaches that it is known to provide tabs (generally shown at 4a and 4b) on a waterproof sheet 1 wherein the head of a fastener 10 is between the tab and the liner and the sheets are capable of being heat sealed i.e. fusion welded as shown in figure 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a tab on a waterproof sheet, as taught by Japanese '499 in order to facilitate fastening of a waterproof sheet and to ensure a "leak-proof" connection. Depending upon the size of the canal, and the size of the waterproof sheets used, it would have been an obvious

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matter of design choice to provide first, second, and third tabs positioned at the bottom, the first sidewall, and the second sidewall respectively, in order to line the entirety of the canal. As shown in figure 3, the liner is unpunctured since the fastener is driven through the tabs and the ends of sheet are heat welded after driving of the fasteners. Furthermore, it is apparent that liner is continuous so as to provide coverage of the whole area to be lined.

As to the method steps, it would have been an obvious matter of design choice to unroll a plastic liner in the step of placing, since it is known to roll sheets of material in order to facilitate storage and handling, therefore it would be inherent to unroll the sheets of material when needed.

Allowable Subject Matter

3. Claims 1-13, 15, 16, and 25 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: claim 1 recites that "a series of sections secured together at field made joints extending transverse to the length of the canal," and "each section being free of field made joints extending along the length of the canal."

Response to Arguments

5. Applicant's arguments filed 11/22/02 have been fully considered but they are not persuasive. As stated above, the liner sections are considered "continuous in all directions" as broadly recited. As to the liner being "one piece," Japan '499, figure 1,

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shows a one piece liner, which is similar to the "one piece" liner shown in the instant invention at figure 2. Figure 1 of Japan '499 and figure 2 of the instant invention show a liner having portions that are made integral so as to form a "one piece" section having a tab.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick L. Lagman whose telephone number is 703-305-7456. The examiner can normally be reached on Monday-Friday 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Schackelford can be reached on 703-308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.



Frederick L. Lagman
Examiner
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February 20, 2003